



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/403,557	10/25/1999	WERNER BERGER	BERGER	7441

7590 12/26/2002  
COLLARD & ROE  
1077 NORTHERN BOULEVARD  
ROSLYN, NY 11576

EXAMINER

RAJGURU, UMAKANT K

ART UNIT	PAPER NUMBER
----------	--------------

1711

DATE MAILED: 12/26/2002

18

Please find below and/or attached an Office communication concerning this application or proceeding.

mk-18

## Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

☒ Responsive to communication(s) filed on Oct 07, 2002 (paper no 17)

☒ This action is **FINAL**.

- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- ☒ Claim(s) 18-34 is/are pending in the application.  
Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 18-34 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

### Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 1765

1. A response (paper no 17) has been filed on October 7, 2002.
2. Claims 18-34 are under examination.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 18-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritter (WO 96/37544) in view of Krishnan et al (USP 550465).

This rejection is incorporated here by reference from prior office action paper no. 15.

5. Applicant's arguments filed October 7, 2002 (paper no 17) have been fully considered but they are not persuasive.

On page 4 of above paper, the applicants state that Ritter produces a nonhomogeneous mass where silicate is not chemically bound. Applicants admit that Ritter uses similar raw materials but the amounts are different from those in instant claims. It is worth <sup>noting</sup> ~~nothing~~ here, that a common practice in art is, to vary amounts of ingredients or raw materials in a composition in order to produce end product having desired properties.

Applicants' argument that "Ritter carries out reaction in about one minute compared with hours that are needed for their claimed process" is not persuasive since this limitation based on residence time is not within the scope of claims 18-34.

Applicants' next argument that "silanes of Krishnan are different from those in instant invention" may be true but not persuasive because instant claims encompass silane in general and therefore Krishnan's silanes do read on those of instant claims.

Art Unit: 1765

The table showing comparison of instant invention with the reference has been considered. It is seen that instant invention is different from either reference in prior art but still it is not patentably distinguishable from the combination of those references. Furthermore the data presented in table are not necessarily within the scope of instant claims 18-34 and therefore said data are not probative to establish nonobviousness of these claims.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to U. K. Rajguru whose telephone number is 703 308-3224. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 703 308-2462. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872-9310 for regular communications and 703 872-9311 for After Final communications.

Art Unit: 1765

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 305-0661.



Examiner Rajguru/ng  
December 18, 2002



James J. Seidleck  
Supervisory Patent Examiner  
Technology Center 1700